IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISCELLANEOUS APPLICATION NO. 185 OF 2004

Dr. Brahma Chellaney
A-14/10 Vasant Vihar
New Delhi 110 057 ... Applicant

versus

1. Marpol Private Limited...
(through its Executive Chairman)
Panandiker Chambers, M.L. Furtado
Road, Margao, Goa.

2. Shri Vishwanath A. Pai Panandiker
Flat No.8450, Pocket 8, Sector C,
Vasant Kunj, New Delhi 110070 ... Respondent

Mr. Akhil Sibal and Ms. R. Kamath, Advocates for the Applicant.

Mr. S. D. Lotlikar, Senior Advocate with Ms. G. Sambari, Advocate for the Respondents.

CORAM : N. A. BRITTO, J.

Date of reserving the
Judgment: 13-1-2005.

Date of pronouncing
the Judgment: 4-3-2005.

ORDER

The applicant who is an accused in C.C.No.85/P/2003/III and against whom process has been issued under Section 500(499?) by the learned J.M.F.C., Margao by his Order dated 4-9-2003 has invoked the jurisdiction of this Court, under Section 482 of the Code of Criminal Procedure, 1973 (Code, for short) to quash and set aside the same.

2. The applicant is a Professor at the Centre for Policy Research, (C.P.R.) an institution set up under the aegis of the Indian Council of Social Science Research, having been appointed from 1-7-1993. The respondent no.2 claims to be the Founder Director/President of the said Centre for Policy Research. The differences between the applicant and respondent no.2 came to the fore when the applicant wrote a letter dated 25-7-2000 to the Chairman of the Governing Board of the said CPR, namely, former Chief Justice of India Mr. Justice Y. V. Chandrachud complaining inter alia that CPR being a public institution was being turned into a personal fief of one individual and that the Director/President was continuing beyond the age of 65 years in contravention of the rules of UGC and ICSSR, etc. On 1-8-2000 Mr. Justice Chandrachud informed the applicant that various aspects mentioned by him in the fact sheet attached to his letter dated 25-7-2000 made a disturbing

reading and that he would himself talk to the Director regarding some of the matters. On 26-7-2000 the applicant wrote an article on 'The Hindustan Times' on 'Rise of the robber intellectual' and sent a copy of the same to Mr. Justice Chandrachud. On 15-8-2000 the applicant informed respondent no.2 that when he went on the previous day to the CPR he had found his Office door locked without any notice to him. On 16-8-2000 respondent no.2 terminated the services of the applicant as a Research Professor at the said CPR.

3. The applicant, therefore, filed a Writ Petition before the Delhi High Court being CWP 5928/2000 and obtained a stay Order in favour of the applicant. This was on 5-11-2000. Subsequently, the applicant was allowed to join work on 27-11-2000 only after the applicant sought Police protection to return to work and this was after respondent no.2 had refused to accept service of the stay Order of the High Court.

4. On 30-12-2000 respondent no.2 sent two complaints against the applicant to the Directorate of Enforcement and Income Tax Department alleging tax evasion by the applicant and though proceedings were initiated by the said authorities the same were closed two months

later. The Delhi High Court on or about 18-1-2002 allowed the Writ Petition filed by the applicant and held that respondent no.2 had continued illegally as the Director of the said CPR and had treated the said CPR as his "alter ego" and regarded himself as "omnipotent", and "above" and "beyond the Board". Thereafter, the said CPR filed a LPA against the Judgment of the learned Single Judge in W.P. No.5928/2000 which was admitted but stay was refused. On 11-4-2002 respondent no.2 likewise filed another LPA. which was admitted with no stay granted. On or about 30-7-2002 the applicant files another Writ Petition in the Delhi High Court against a fresh move to oust him from CPR in which the Delhi High Court on or about 15-4-2002 granted stay in favour of the applicant. On 15-2-2003 the Metropolitan Magistrate issued process against respondent no.2 on a complaint filed by the applicant, arising from the complaints filed by respondent no.2, to the said Directorate of Enforcement and Income Tax Department, under Sections 211 and 500 I.P.C.

5. In the above background, respondent no.1-Company filed a criminal complaint against the applicant on 5-2-2003 before the learned J.M.F.C, Margao, Goa, and respsondent no.2 filed a Civil Suit on 10-10-2003 before the Civil Judge, Senior Division, Margao. The scene has now changed from New Delhi to Goa. After the said complaint was filed through the Company's Chief Financial Officer Shri Sandeep Bastodkar

and after examining the said Bastodkar on oath and another witness by name Venugopal, the learned J.M.F.C. by his Order dated 4-9-2003 was pleased to issue process against the applicant under Section 499 I.P.C.(and not under Section 500 I.P.C.) which process, the applicant in this petition wishes to be quashed.

6. The case of the complainant-Company, in brief, is that the accused in his attempt to cause damage to the fair name of Dr. V. A. Panandikar(respondent no.2) made defamatory allegations that he had siphoned the funds of CPR to the complainant and also made some other remarks against him and respondent no.2 had submitted in one of his letters dated 8-9-2000 addressed to Justice Y. V. Chandrachud, Chairman, CPR Governing Board that: "For years, Dr. Panandikar has served as a full time employee of the Society while building up his personal commercial enterprise, Marpol Chemicals Ltd. in Goa and frequently absenting himself from his duties at CPR".

7. It is also the case of the complainant-Company that the accused got published in the issue of "Hindustan Times" dated 26-7-2000 an article titled 'RISE OF THE ROBBER INTELLECTUAL' emphasising therein that a new class of foreign funded academic entrepreneurs adept at political string pulling is emerging and that the accused produced his aforesaid article at

page 46 of the said Writ Petition and that the contents of the said article are false, imaginary and malicious and published with the sole intention of damaging the reputation of Dr. Panandikar(respondent no.2) who is presently the Executive Chairman of the complainant.

8. Further, it is the case of the complainant that the accused appended a copy of the said letter dated 8-9-2002 as an annexure at pages 65 and 66 and the said article at page 46 of his Writ Petition before the High Court of Delhi and copies of the said Writ Petition and all the said annexures thereof were furnished to all the 17 respondents in the said Writ Petition who received copies of the same and thus there was publicity of the defamatory averments and assertions made by the accused that Dr. Panandikar had served as a full time employee of the said CPR Society while building up his personal commercial enterprise Marpol Chemicals Ltd, in Goa and frequently absenting himself from his duties at CPR. As per the complainant there are serious aspersions contained in the said defamatory statement that the complainant is the said enterprise of Dr. Panandikar and that it has been built by Dr. Panandikar as one of his personal commercial enterprise while serving as a full time employee at the Centre for Policy Research Society by diverting funds from the Centre for Policy Research and using CPR position to derive unfair advantage for the complainant-Company. It is also the case of the complainant that the aforesaid

defamatory statement has created an impression that the company has been built up by siphoning the funds of CPR by Dr. Panandikar as also the complainant is the creation/formation of Dr. Panandikar as one of his personal commercial enterprise and that the complainant has availed the funds of CPR and services of Dr. Panandikar to establish itself as a limited Company.

9. It is also the case of the complainant that the accused managed to have other material published in the national newspapers such as Indian Express, India Today, etc. informing the readers thereof that Dr.Panandikar has squandered the funds of Centre of Policy Research and one such article was published on the Express Magazine as Sunday story dated 11-2-2001 and thus the accused made efforts to create prejudice and wrong impressions in the minds of the Courts against Dr. Panandikar by consciously supplying false information regarding the complainant-Company to the effect that the complainant-Company is one of the business enterprise built up by Dr. Panandikar from the funds collected by him from the Centre for Policy Research. As per complainant a clear impression was created that the complainant-Company had been constituted and established by ill-gotten wealth through Dr. Panandikar from a public institute of National importance such as Centre for Policy Research.

10. According to the complainant the defamatory statement made by him in the letter addressed to the former Chief Justice of India as the Chairman of CPR Governing Board were appended to create prejudice and wrong impressions in the minds of the Courts against Dr. Panandikar by consciously supplying false information regarding the Company as also the journalists and readers of various newspapers and journals. The complainant has stated that the said statement of the accused and the manner in which he has placed it on the judicial records and got it distributed to all the respondents therein has affected the name and goodwill of the Company. A clear impression is created by the accused by his dubious ways of aforesaid publication that the complainant has been established by ill-gotten wealth from the Centre for Policy Research, which has achieved international fame.

11. The complainant has stated that defamatory statements were published by the accused in Delhi when he addressed the letter containing therein the defamatory statement to Justice Mr. Y. V. Chandrachud and thereafter copies of the said letter were distributed to all the respondents in the said Writ Petition No.5928/2000 and the contents of a letter in the context of the newspaper cuttings which was also annexed to the same Writ Petition gave a clear impression in the minds of most of the respondents,

their Officers and staff members that the complainant-Company was established with the funds from the Centre for Policy Research and that the complainant is functioning with ill-gotten capital and such impression created adverse impression about the complainant and the products being manufactured by them as also dealings of the complainant with their customers, agents, distributors and stockists and such impression has created adverse effect on the standing, goodwill and credibility of the complainant, their products and dealings and the said defamatory statements made and published by the accused resulted in queries being received by some of the Industrialists and businessmen in Goa from their counterparts associated and/or having dealings with some of the Members of the Governing Board of CPR and that the complainant, Directors and Senior Officers also received corresponding queries from other businessmen and Industrialists in Goa about the capital with which the complainant had been established and was functioning and, therefore, the impact of the said aforesaid defamatory statements made and published by the accused has been felt in Goa and mostly in South Goa where the Office is located and is functioning.

12. The first controversy required to be dealt with is whether the applicant should be allowed to invoke the jurisdiction of this Court under Section 482 of the Code.

13. Mr. Sibal, the learned Counsel on behalf of the applicant has referred to a passing reference made by the Hon'ble Supreme Court in the case of **Adalat Prasad** v. **Rooplal Jindal and others**(JT 2004(7) SC 243) wherein the Hon'ble Supreme Court stated that in the absence of any review power or inherent power with the subordinate criminal courts , the remedy lies in invoking Section 482 of the Code, in support of his submission that the present petition filed under Section 482 of the Code is maintainable. Mr. Sibal has also placed reliance on the case of **Raj Kapoor and others** v**. State and others**((1980) 1 SCC 43) wherein the Hon'ble Supreme Court has stated that availability of revisional jurisdiction under Section 397 of the Code does not exclude jurisdiction under Section 482 of the Code and that Court should exercise its inherent jurisdiction only in extraordinary situations. In my view, for an accused against whom process has been issued, a twofold remedy is now available. One could be termed as an ordinary remedy under Section 397 of the Code. The other could be termed as extraordinary remedy under Section 482 of the Code. This is evident from Section 397 as well as Section 482 of the Code and the pronouncements of the Hon'ble Supreme Court in a catena of decisions. For example, in the case of **Rajendra Kumar Sitaram Pande and others** v. **Uttam and another**((1999) 3 SCC 134) the Hon'ble Supreme Court has stated that an Order directing issuance of process is not purely interlocutory

Order and that it could be termed as intermediate or quasi-final and, therefore, the revisional jurisdiction under Section 397 could be exercised against the same.

14. In the case of the **State through Special Cell, New Delhi** v. **Navjot Sandhu** ((2003) 6 SCC 641) the Hon'ble Supreme Court has stated that the inherent power under Section 482 of the Code overrides other provisions including Section 397 but remedy under it is not to be exercised when remedy under the Code or other statute is available. The Court further held that the inherent power is to be used only in cases where there is an abuse of the process of court or where interference is absolutely necessary for securing the ends of justice and it must be exercised very sparingly as cases which require interference would be few and far between. The most common case where inherent jurisdiction is generally exercised is where criminal proceedings are required to be quashed because they are initiated illegally, vexatiously or without jurisdiction.

15. The Hon'ble Supreme Court in the case of **Zandu Pharmaceutical Works Ltd.** v. **Mohd. Sharafal Haque and another** ((2005) 1 SCC 122) has again reiterated that the exercise of power under Section 482 is the exception and not the rule and that it is to be exercised ex debito justitia to do real and substantial justice for administration for

which alone the Courts exist. Referring to the case of **State of Haryana** v**. Bajan Lal** (AIR 1982 SCC 604), the Hon'ble Supreme Court approved and indicated certain illustrative cases wherein this Court could exercise inherent power under Section 482 of the Code. Some of those illustrations are:

> 1. Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
>
> 2. Where the uncontroverted allegations made in the F.I.R. or the complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
>
> 3. ....
>
> 4. Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can over reach a just conclusion that

> there is sufficient ground for proceeding against the accused.
>
> 5. ...
>
> 6. Where a criminal proceeding is manifestly attended with mala fides and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

16. In my view, this is a fit case where the applicant ought to be allowed to invoke the extraordinary jurisdiction of this Court under Section 482 of the Code because the case of the applicant is covered by illustration (6) referred to hereinabove. It does not require much effort to say that the complaint was filed by the complainant-Company at the behest of respondent no.2 and at his instance, pulling the strings from behind the scenes, by suppressing the Judgment of the learned Single Judge in Writ Petition No.5928/2000 of the High Court of Delhi and subsequent Letter Patent Appeals filed against the same as well as the fact that process was also issued against respondent no.2 in a complaint filed by the applicant before the learned Metropolitan Magistrate, New Delhi. This has been done

by respondent no.2 with a view to drag the applicant from New Delhi to the State of Goa, the respondent no.2 having failed to succeed in the compaign of ousting the applicant from the said CPR and the adverse decisions of the Courts which followed thereafter against respondent no.2.

17. The second aspect which needs to be considered is the authority given to Mr. Sandeep Bastodkar, the C.F.O of the complainant-Company to file a complaint of defamation under Section 500 IPC. In my view the said P.W.1/Sandeep Bastodkar has no authority either to file a complaint for defamation or to depose in support of the same in terms of the Resolution of the Board of Directors taken on 7-1-2003, copy of which, was produced on behalf of the complainant at Exh.P.W.1/F. The relevant portions of the said Resolution read as follows:-

> "RESOLVED that a civil and criminal cases be filed against Mr. Brahma Chellaney of the Centre for Policy Research".
>
> "RESOLVED further that Mr. Sandeep Bastodkar-C.F.O. is hereby authorised to institute the suit and give evidence on behalf of the Company and to do all other acts necessary in connection with the proposed litigation to be

> filed by the Company against Mr. Brahma Chellaney based on the direction of the Executive Chairman or when necessary the Executive Committee".

18. In my view, it was for the Board of Directors of the complainant-Company first to decide as to which of the three writings, on which the complaint is based, was defamatory of the complainant-Company and it was also obligatory on the part of the said Company to have resolved under what Sections of law the criminal case had to be filed. P.W.1/Bastodkar has been given authority to depose in the suit and not in the criminal case. In this view of the matter also the process issued deserves to be quashed.

19. Admittedly, the letter dated 8-9-2002 was written by the applicant to the former Chief Justice of India, Mr. Justice Y. V. Chandrachud as Chairman of the Governing Board of the CPR. In the complaint, effort has been made to extract a portion of the said letter to show that the same is defamatory in nature. However, as far as the article published by the applicant on the 'Hindustan Times' dated 26-7-2000 is concerned no such effort has been made though it was submitted on behalf of the respondents that in the said article there were supple ironic insinuations which would be

understood by those who knew the applicant and the respondent no.2. As far as the third article is concerned, the same was written by one Ajit Kumar Jha on the Express Magazine dated 11-2-2001. It pertains not only to the CPR but also to other institutions and if at all the said Ajit Kumar Jha has reflected the opinion of the applicant in the said article, so also he has reflected the opinion of respondent no.2 as far as the working of CPR is concerned. Under no stretch of imagination could the complainant rightly allege that the applicant was responsible for the writing of the said article. Be that as it may, it is the very case of the complainant that the said letter dated 8-9-2002 as well as the said article on 'Hindustan Times' dated 26-7-2000 were appended as annexures to the Writ Petition and were circulated to the respondents in the said Writ Petition in New Delhi. Admittedly, all the respondents in the said Writ Petition were in New Delhi and if at all the said letter/article was defamatory in character, they were circulated at New Delhi. Section 177 of the Code provides that every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed. In case the said letter/article was published at New Delhi, obviously the cause of action for filing the complaint, if at all such a cause of action existed, the same arose in New Delhi within the jurisdiction of the Metropolitan Magistrate there and certainly not before the Judicial Magistrate, First Class, at Margao where the Head Office of the complainant-Company is situated. The complainant has

stated facts in paras 32, 33 and 34 of the complaint to make out a cause of action to file a complaint at Margao where the registered Office of the complainant is situated. The complainant, in the said paras, seems to convey an idea that if an earthquake takes place at New Delhi and tremors of it are felt in Margao, then it enables the Company to file a complaint in Margao. The complainant could not have filed the complaint at Margao on the specious plea that the impact of the said defamatory statements made by the applicant in the annexures filed in the said petition were felt in Goa so as to invoke the jurisdiction of the learned J.M.F.C, Margao. In my view, the learned J.M.F.C, Margao had no jurisdiction at all to entertain the complaint of the complainant-Company. On this count also the process issued against the accused deserves to be quashed.

20. On behalf of the applicant, it has been submitted that the complainant-Company had no cause of action because it is their case that who was defamed was the respondent no.2 and since the complainant-Company was not aggrieved by the said defamatory statements, the complainant could not file a complaint, as stipulated under Section 199 of the Code. Both the parties have relied upon Section 199 of the Code and the decision of the Hon'ble Supreme Court in the case of **John Thomas** v. **Dr. K. Jagadeesan** (2001 CRI.L.J. 3322).

21. Section 199 of the Code deals with prosecution for defamation. Sub-section(1) thereof provides that no Court shall take cognizance of an offence punishable under Chapter XXI of I.P.C. except upon a complaint made by some person aggrieved by the offence:-

Provided that where such person is under the age of eighteen years, or is an idiot or a lunatic, or is from sickness or infirmity unable to make a complaint, or is a woman who, according to the local customs and manners, ought not to be compelled to appear in public, some other person may, with the leave of the Court, make a complaint on his or her behalf.(The rest part of the Section is unnecessary for our case).

22. The Hon'ble Supreme Court in the said case of **John Thomas** v. **Dr. K. Jagadeesan** (supra) was dealing with a complaint filed by a Directror of a hospital known as "K. J. Hospital" who was also Honorary Overseer Adviser of Royal College of Physicians and Surgeons of Glasgow in U.K. He had filed a complaint alleging that there was a news item published by "Madras Times" on 21-3-1991 containing highly defamatory imputations against his hospital. The said newspaper, inter alia, stated that the hospital used to stealthily deprive its patients of one of their kidneys when they were admitted for minor operations. Women who were admitted for caesarean had one of their kidneys removed without their knowledge... etc. The

contention raised was that the complainant was only a Director of the said K. J. Hospital about which the publication was made and that the publication did not contain any libel against the said complainant personally. The Hon'ble Supreme Court referring to the Explanation 2 in Section 499 of I.P.C. stated that it could not be disputed that the publication containing defamatory imputations as against a Company would not escape from the purview of the offence of defamation. If the defamation pertains to an association of persons or a body corporate, who could be the complainant? This could be answered by reference to Section 199 of the Code. The Hon'ble Supreme Court further referring to Section 199 of the Code stated that the collocation of the words "by some persons aggrieved" definitely indicates that the complainant need not necessarily be the defamed person himself. Whether the complainant has reason to feel hurt on account of the publication is a matter to be determined by the Court depending upon the facts of each case. If a Company is described as engaging itself in nefarious activities, its impact would certainly fall on every Director of the Company and hence he can legitimately feel the pinch of it. Similarly, if a firm is described in a publication as carrying on offensive trade, every working partner of the firm can reasonably be expected to feel aggrieved by it. If K. J. Hospital is a private limited company, it is too far-fetched to rule out any one of its Directors, feeling aggrieved on account of pejoratives hurled at the Company. Hence the contention that the said complainant did not fall

within the purview of "some person aggrieved" as envisaged in Section 199 (1) of the Code was rejected. It has been submitted on behalf of the respondents that the complaint has been filed by the Company for the defamation of the complainant-Company as well as respsondent no.2. In my view, this is not expressly stated by the complainant in the complaint and such a submission cannot be accepted. A reading of the said complaint shows that it has been filed on the allegation that it is the complainant-Company who has been defamed. If a Director has a cause to feel hurt of the Company of which he is a Director is defamed, the converse need not necessarily be true. It is the very case of the complainant that respondent no.2 has not contributed any capital or any other investments in the family Companies (of Mr. Atmaram Pai Panandikar) whose son is respondent no.2. The complainant has also stated that respondent no.2 does not hold any shares in his individual capacity in the complainant-Company. It is also not the case of the complainant that at the relevant time the respondent no.2 was a Director of the complainant-Company. It appears that only after respondent no.2 was compelled to vacate his Directorship in the CPR that the respondent no.2 became the Executive Chairman of the complainant-Company. In such a situation I fail to understand as to why the complainant-Company should at all be aggrieved if at all any defamatory statement was made regarding respsondent no.2. It may be stated here that the so-called defamatory statement that "for years Dr. Panandikar has served as a full time

employee of the Society while building up his commercial enterprise Marpol Chemicals Ltd. in Goa and frequently absenting himself from his duties" if at all it is defamatory, it is defamatory of Dr. Panandikar-respondent no.2 and not the complainant-Company. The allegation that respondent no.2 while serving as a full time Director of the said CPR diverted funds from the said CPR to the complainant-Company is a figment of imagination of the complainant-Shri Sandeep Bastodkar, C.F.O. of the complainant-Company. At the cost of repetition, it may be stated that the said statement in the letter dated 8-9-2002 is not defamatory of the complainant-Company at all, and as far as the article on "Hindustan Times" dated 26-7-2000 is concerned there is no reference to the complainant-Company and in this view of the matter also the process deserves to be quashed. The complaint has not been filed by a person "aggrieved" within the meaning of Section 199 of the Code.

23. As far as the statement in the letter dated 8-9-2002 is concerned reproduced by the complainant, the same was made by the applicant concerning respsondent no.2. It was made by the applicant to the Chairman of the CPR Governing Board. It was some sort of a complaint made by the applicant to his superior as a Chairman of the Governing Board of the CPR and, therefore, would be covered by Exception 8 to Section 499 of I.P.C.

24. In a similar situation, the Hon'ble Supreme Court in the case of **Rajendra Kumar Sitaram Pande and others** v. **Uttam and another (**supra) stated that it would be the travesty of justice to call upon the accused to face the trial. It was a case where there were allegations in the complaint that the accused persons had made a complaint to the Treasury Officer, Amravati, containing false imputations to the effect that the complainant had come to the office in a drunken state and abused the Treasury Officer, Additional Treasury Officer and the Collector and circulated in the office using filthy language and such imputations had been made with the intention to cause damage to the repetition and services of the complainant. The learned Magistrate had called upon the Treasury Officer to hold an inquiry and submit a report. The Hon'ble Supreme Court referred to Exception 8 to Section 499 of the Code and stated that it is not a defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with regard to the subject-matter of accusation. Under such circumstances the fact that the accused persons had made a report to the superior officer of the complainant alleging that he had abused the Treasury Officer in a drunken state would be covered by Exception 8 to Section 499 I.P.C. and, therefore, it would not be in the interest of justice to require the accused persons to face trial. In my view, the same approach has got to be followed in this case and process issued against the applicant should be quashed.

25. As already stated, in my view, respondent no.2 appears to be too shy to prosecute the applicant in a Court of competent jurisdiction at New Delhi for things said and done by the applicant against him. The present complaint was an attempt by respondent no.2 through the Company of which he is now Executive Chairman to harass the applicant by bringing him to Goa and possibly with a view to get some mileage to defend the prosecution filed against him before the Metropolitan Magistrate at New Delhi. The words "on the direction of the Executive Chairman" in the Resolution dated 7-1-2003, the suit filed by respondent no.2 himself(and not by the complainant-Company) the caveat notice dated 25-8-2004, the joint Memo for settlement filed by the applicant at New Delhi, bring out the reality that it is the respsondent no.2 who is actually interested in harassing the applicant and not the said Company. In my view, the complaint has been filed by respondent no.2 by suppressing the result of the Writ Petition filed by the applicant in which some strictures were passed against respondent no.2. Had the correct position of the said Writ Petition and the Judgment of the learned Single Judge of Delhi High Court(2002 111AD (Delhi) 465) been brought to the notice of the learned J.M.F.C, in my view, the learned J.M.F.C. might have not issued process against the applicant at all. It is but obvious for reasons stated herein above that respondent no.2 has abused the process of the Court by filing a case of defamation through a

Company whose Executive Director he is at present. This is a fit case to quash the process issued against the applicant and the proceedings in the said Criminal Case and to award in favour of the applicant costs of Rs.7000/- by respsondent no.2. Order accordingly.

N. A. BRITTO, J.

RD.